celebrated, has ever before been denied recognition, and this is conceded in the principal case. The decision seems to proceed in part on the theory originally followed by the civil law, which finds some support in the English cases, that capacity to marry is a matter of personal status, to be determined by the law of the domicile. *Cf. Sottomayor v. De Barros* (1877) 3 P. D. 1; *Brook v. Brook* (1861) 9 H. L. Cas. 192. But the question is confused by the emphasis placed on the public policy of the forum, as evidenced by the Wisconsin statutes, and its similarity to the policy of Illinois. If the law of the domicile is the proper criterion, its application can hardly be conditioned on such similarity. And since it was not the public policy of Wisconsin, but the similar policy of Illinois, which the court professedly enforced, the decision cannot be explained on the analogy, which would be strained at best, of cases holding that the distinctive public policy of the forum may deny recognition to certain classes of foreign marriages. *State v. Bell* (1872, Tenn.) 7 Baxt. 9 (miscegenation); *United States v. Rodgers* (1901, D. C. E. D. Pa.) 109 Fed. 886 (consanguinity). The decision might possibly be supported by regarding the situation as similar to that existing before a decree *nisi* has become absolute, and considering the divorce incomplete until the year has expired. This ground also is suggested in the opinion, but no other decided case has been found to support it. See, however, dissenting opinion in *Estate of Wood, supra;* and *cf. McLennan v. McLennan* (1897) 31 Oreg. 480, 50 Pac. 802.

L. F.

CONFLICT OF LAWS—WORKMEN'S COMPENSATION ACT—FOREIGN CONTRACT OF EMPLOYMENT.—The plaintiff, employed under a contract made in Massachusetts, was injured in Connecticut while working within the scope of his employment. Suit was brought in Connecticut under the Connecticut Workmen's Compensation Act. *Held,* that the plaintiff might recover. *Donthwright v. Champlin* (1917) 91 Conn. 524, 100 Atl. 97. See COMMENTS, p. 113.

CONSTITUTIONAL LAW—ADMIRALTY—STATE WORKMEN'S COMPENSATION ACT NOT APPLICABLE TO INJURIES WITHIN ADMIRALTY JURISDICTION.—An employee of a company operating a coastwise steamship line was accidentally killed while engaged in the work of unloading a cargo at a pier in New York. In proceedings under the New York Workmen's Compensation Act, his widow and children received an award which was approved by the New York Court of Appeals. The case was taken by writ of error to the United State Supreme Court. *Held,* that the state compensation act, as applied to matters within admiralty jurisdiction, was in conflict with the grant of exclusive admiralty jurisdiction to the federal courts by the Constitution, and was to that extent invalid, and the award must be set aside. *Southern Pacific Co. v. Jensen* (1917) 37 Sup. Ct. 524. See COMMENTS, next month.

CONSTITUTIONAL LAW—CONSTITUTIONAL CONVENTIONS—LEGISLATURE'S POWER TO CALL.—The plaintiff brought suit for himself and all other

tax-payers of the state, to enjoin the enforcement of an act of the legislature providing for the calling of a constitutional convention without first submitting the question to the people. The state constitution contained no provision for the calling of such conventions. On a submission of the question three years before, the electorate had declined to authorize a convention. *Held,* that the act in question was beyond the powers of the legislature and the injunction should issue. Lairy, J., *dissenting. Bennett v. Jackson* (1917, Ind.) 116 N. E. 921.

In the absence of judicial authority the weight of opinion among text-writers seems to be against the instant case. Jameson, *Const. Conv.* (6th ed.) 211; Dodd, *The Revision and Amendment of State Constitutions,* 44; 6 Am. & Eng. Enc. of Law, 896; Cooley, *Const. Lim.* (6th ed.) 42. But there are strong arguments in favor of the decision. Legislative power may be divided into two classes, ordinary and fundamental. Jameson, *Const. Conv.* 84-86. The grant of legislative authority to the General Assembly confers only the power to pass ordinary legislation. *McCullough v. Brown* (1893) 41 S. C. 220, 248, 19 S. E. 458, 473. The power to pass fundamental legislation is still retained by the people. In drawing the line between the two, extra-legal factors, such as custom, political tendency, expediency, public policy, must necessarily have influence. It is an almost universal custom in the states, in the absence of constitutional provision, first to submit the question of calling a convention to the people. 6 R. C. L. 27. In the few contrary instances cited by the dissenting judge the power of the legislature had not been challenged. Granting that where the people have no machinery to institute legislation there must be an implied power in the legislature to take the first step, this may well be limited to what is absolutely necessary to enable the people to exercise their reserved powers. Nor can it be said to be immaterial whether the people act before or after the convention, in view of the large expenditure of public money which the calling and holding of such conventions necessarily involve. In view of these considerations, the decision in the instant case may well be accepted as sound.

C. S. B.

CONSTITUTIONAL LAW—CONSTITUTIONALITY OF SELECTIVE DRAFT ACT.—The defendants were indicted for conspiring to procure persons to violate certain penal provisions of the "selective draft act" of May 18, 1917. On a motion to quash the indictment they attacked the constitutionality of the act, objecting, among other grounds indicated below, that it deprived the courts of the United States of the power to pass on the exemptions provided by the act, and that it called out the militia for a purpose not authorized by the Constitution. *Held,* in sustaining the indictment, that the act was within the power "to raise and support armies" conferred by Art. I, sec. 8, subdivision 12 of the Constitution; that it did not call out the militia as such, but, in the exercise of the general power to draft all citizens, drafted into the national army the members of the militia organizations; that compulsory military service is not "involuntary servitude" within the prohibition of the Thirteenth Amendment; that the exemption boards, if courts at all, were military courts established under the power given by Art. I, sec. 8 of the Constitution "to make rules for